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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 BANK OF AMERICA, N.A.,

11 Plaintiff(s),

12 v.

13 ELKHORN COMMUNITY ASSOCIATION,
14 et al.,

15 Defendant(s).

Case No.: 2:16-cv-00524-RFB-NJK

Order

16 Pending before the Court is a Stipulated Protective Order, which the Court approved to
17 facilitate discovery in this case. This order reminds counsel that there is a presumption of public
18 access to judicial files and records. A party seeking to file a confidential document under seal
19 must file a motion to seal and must comply with the Ninth Circuit's directives in *Kamakana v. City*
20 *and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006).

21 The Court has adopted electronic filing procedures. Attorneys must file documents under
22 seal using the Court's electronic filing procedures. *See Local Rule IA 10-5*. Papers filed with the
23 Court under seal must be accompanied with a concurrently-filed motion for leave to file those
24 documents under seal. *See Local Rule IA 10-5(a)*.

25 The Court has approved the blanket protective order to facilitate discovery exchanges. But
26 **there has been no showing, and the Court has not found, that any specific documents are**
27 **secret or confidential**. The parties have not provided specific facts supported by declarations or
28 concrete examples to establish that a protective order is required to protect any specific trade secret

1 or other confidential information pursuant to Rule 26(c) or that disclosure would cause an
2 identifiable and significant harm. The Ninth Circuit has held that there is a presumption of public
3 access to judicial files and records, and that parties seeking to maintain the confidentiality of
4 documents attached to nondispositive motions must show good cause exists to overcome the
5 presumption of public access. *See Kamakana* 447 F.3d at 1179. Parties seeking to maintain the
6 secrecy of documents attached to dispositive motions must show compelling reasons sufficient to
7 overcome the presumption of public access. *Id.* at 1180. **All motions to seal must address the**
applicable standard and explain why that standard has been met. The fact that a court has
8 entered a blanket stipulated protective order and that a party has designated a document as
9 confidential pursuant to that protective order does not, standing alone, establish sufficient grounds
10 to seal a filed document. *See Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1133 (9th
11 Cir. 2003); *see also Beckman Indus., Inc. v. Int'l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992).

12 If the sole ground for a motion to seal is that the opposing party (or non-party) has
13 designated a document as confidential, the designator shall file (within seven days of the filing of
14 the motion to seal) either (1) a declaration establishing sufficient justification for sealing each
15 document at issue or (2) a notice of withdrawal of the designation(s) and consent to unsealing. If
16 neither filing is made, the Court may order the document(s) unsealed without further notice.
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18 **IT IS ORDERED** that counsel shall comply with the requirements of Local Rule IA 10-
19 5, the Ninth Circuit's decision in *Kamakana*, 447 F.3d 1172, and the procedures outlined above,
20 with respect to any documents filed under seal. **To the extent any aspect of the stipulated protective**
order may conflict with this order or Local Rule IA 10-5, that aspect of the stipulated protective
order is hereby superseded with this order.

21 IT IS SO ORDERED.

22 Dated: June 26, 2019

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Nancy J. Koppe
United States Magistrate Judge

